

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0095-01  
Bill No.: HB 399  
Subject: Property, Real and Personal: Eminent Domain and Condemnation  
Type: original  
Date: February 10, 2001

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
State Roads	(\$4,127,299)	(\$8,580,963)	(\$13,233,139)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(\$4,127,299)</b>	<b>(\$8,580,963)</b>	<b>(\$13,233,139)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 4 pages.

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## **FISCAL ANALYSIS**

### ASSUMPTION

Officials of the **Office of Administration - Division of Design and Construction**, the **Department of Conservation**, the **University of Missouri** and the **Department of Natural Resources** stated that the proposal would not affect their agencies. Officials of the **Attorney General** stated that their agency could carry out duties under this proposal with existing resources.

Officials of the **Department of Transportation (MoDOT)** based their estimate of the proposal's effects on their agency on the state of Florida's experience with a similar proposal. They anticipate condemnation proceedings to rise from the current 15% of land acquisitions to 50% of land acquisitions.

They noted that MoDOT acquires 1,000 to 1,300 parcels of real property per year for right-of-way purposes and 80% to 85% are acquired by negotiation with property owners.

They suggest that the opportunity to collect attorney fees, appraisal fees and engineering fees would give landowners incentive not to settle and decrease their incentive to limit their litigation costs, because costs might be collected from MoDOT.

They noted that the Florida DOT must now acquire about 36% to 48% of its right-of-way by condemnation because of "liberal" award of attorney and other fees. For FY 2000, Florida paid about \$56,000,000 in fees while acquiring 1,800 parcels.

Based on the assumption that parcel acquisitions by condemnation would rise from about 15% to about 50%, MoDOT would request an increase in the number of legal staff and attorneys. (12 Attorneys, 6 Legal Assistants, and 6 Legal Secretaries)

MoDOT officials estimated the proposal would cost the Commission over \$17,000,000 per year in attorney, appraisal and engineering fees, based on 50% of 1,300 acquisitions per year with an average cost of \$25,000 per acquisition. The 50% is based on Florida's experience, the \$25,000 is an average for current condemnation acquisitions. These costs do not include any estimate of costs due to fees awarded to land owners by courts.

**Oversight** notes that 15% of land acquisitions are currently acquired through condemnation; therefore 30% of the additional \$17,000,000 would be incurred in any case.

Oversight assumes the percentage of condemnations would not jump from 15% to 50% in the first year the proposal would be in effect. For fiscal note purposes, it is assumed the 50% level  
ASSUMPTION (continued)

would be reached in the third year the proposal would be in effect.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<b>STATE ROAD FUND</b>			
<u>Cost</u> - Department of Transportation (MoDOT)			
Personal Service (8, 16, 24 FTE)	(\$186,667)	(\$470,680)	(\$723,671)
Fringe Benefits	(\$75,432)	(\$190,202)	(\$292,435)
Expense and Equipment	(\$73,533)	(\$109,248)	(\$149,295)
Additional Condemnations	<u>(\$3,791,667)</u>	<u>(\$7,810,833)</u>	<u>(\$12,067,738)</u>
Cost to MoDOT	(\$4,127,299)	(\$8,580,963)	(\$13,233,139)
<b>ESTIMATED NET EFFECT ON STATE ROAD FUND</b>	<b><u>(\$4,127,299)</u></b>	<b><u>(\$8,580,963)</u></b>	<b><u>(\$13,233,139)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<b>POLITICAL SUBDIVISIONS</b>			
<u>Costs</u> - legal costs and purchase prices from additional condemnations	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

#### FISCAL IMPACT - Small Business

Small businesses which have property in possible highway construction rights-of-way could be affected by this proposal.

#### DESCRIPTION

This proposal would require entities acquiring real property for public use to reimburse the prior owner for certain fees and expenses. The proposal would allow owners to collect attorney fees and other expenses in certain unsuccessful condemnation proceedings and in some inverse condemnation proceedings.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space. The proposal would not affect Total State Revenue.

#### SOURCES OF INFORMATION

Attorney General

GVB:LR:OD (12/00)

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Office of Administration  
Department of Conservation  
Department of Natural Resources  
Department of Transportation  
University of Missouri

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "e" at the end.

Jeanne Jarrett, CPA  
Director  
February 13, 2001